

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re:

Chapter 11

ETOYS, INC., et al.,

Case Nos. 01-0706 (MFW)
Through 01-0709 (MFW)

Debtors.

ROBERT K. ALBER, *Pro Se*,

Appellant,

 γ

Civil Action No. 05-830 (KAJ)

TRAUB, BONACQUIST & FOX LLP,
BARRY GOLD, MORRIS NICHOLS
ARSHT & TUNNELL LLP, and POST-
EFFECTIVE DATE COMMITTEE OF
EBC I, INC.,

Appellees.

MORRIS, NICHOLS, ARSHT
& TUNNELL LLP,

Cross-Appellant,

v.

Civil Action No. 05-831 (KAJ)

TRAUB, BONACQUIST & FOX LLP,
BARRY GOLD, ROBERT K. ALBER
and STEVEN HAAS

Cross-Appellees.

SECOND AMENDED CONSOLIDATED SCHEDULING ORDER

WHEREAS, the Court initially established briefing schedules in connection with the above-captioned appeals by (a) a scheduling order (Docket

No. 25) (the "Alber Appeal Scheduling Order") entered September 20, 2006 on the docket of the appeal captioned *Robert K. Alber v. Traub, Bonacquist & Fox LLP, et al.*, Civil Action No. 05-0830 (KAJ) (the "Alber Appeal"), and (b) a scheduling order (Docket No. 14) (the "MNAT Cross-Appeal Scheduling Order," and together with the Alber Appeal Scheduling Order, the "Original Scheduling Orders") entered September 19, 2006 on the docket of the related cross-appeal captioned *Morris, Nichols, Arsht & Tunnell v. Traub, Bonacquist & Fox LLP, et al.*, Civil Action No. 05-0831 (KAJ) (the "MNAT Cross-Appeal," and together with the Alber Appeal, the "Appeals");

WHEREAS, after due deliberation and notice to the parties to the Appeals, the Court entered the Amended Consolidated Scheduling Order, dated September 22, 2006 (Docket No. 28) (the "First Amended Scheduling Order"), which amended and superseded the Original Scheduling Orders in their entirety;

WHEREAS, Appellant/Cross-Appellee Robert K. Alber failed to file his opening brief in the Alber Appeal on or before October 4, 2006, as required by the First Amended Scheduling Order;

WHEREAS, by Order, dated October 13, 2006 (Docket No. 32), the Court directed the parties to the Appeals to appear for a telephonic status conference on October 16, 2006 at 3:30 p.m. (prevailing eastern time) (the "Status Conference");

WHEREAS, on October 16, 2006, Mr. Alber filed a document (Docket No. 35) which included a request for enlargement of time to prepare and file his opening brief in the Alber Appeal; and

WHEREAS, for the reasons stated on the record of the Status Conference, subject to the conditions stated on the record of the Status Conference and after due deliberation and notice to the parties to the Appeals,

IT IS HEREBY ORDERED that:

1. The MNAT Cross-Appeal is consolidated with the Alber Appeal for procedural purposes only. All future filings relating to the MNAT Cross-Appeal shall be made on the docket of the Alber Appeal, Civil Action No. 05-0830 (KAJ).

2. Robert K. Alber shall file and serve his opening brief in the Alber Appeal on or before November 15, 2006.

3. Appellees Traub, Bonacquist & Fox LLP, Barry Gold, Post-Effective Date Committee of EBC I, Inc., the United States Trustee and Morris, Nichols, Arsht & Tunnell LLP ("Morris Nichols") shall file and serve their respective answering briefs within fourteen (14) days after the date of service of Mr. Alber's opening brief. Morris Nichols' answering brief also shall serve as its opening brief in connection with the MNAT Cross-Appeal.

4. Mr. Alber shall file his reply brief in connection with the Alber Appeal within seven (7) days after the date of service of Appellees' answering briefs. Mr. Alber's reply brief also shall serve as his answering brief in connection with the MNAT Cross-Appeal.

5. Morris Nichols may file a reply brief in connection with the MNAT Cross-Appeal within seven (7) days after Mr. Alber serves his reply brief.

6. This Order amends and supersedes the Original Scheduling Orders and the First Amended Scheduling Order in their entirety.

October ____, 2006
Wilmington, Delaware

UNITED STATES DISTRICT JUDGE

538037